

ORDINANCE NO. 937

AN ORDINANCE OF THE CITY OF LODI ESTABLISHING  
REGULATIONS AND PROCEDURES FOR THE REMOVAL  
OF OVERHEAD UTILITY FACILITIES AND THE INSTAL-  
LATION OF UNDERGROUND FACILITIES IN UNDER-  
GROUND UTILITY DISTRICTS.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LODI, CALIFORNIA,  
AS FOLLOWS:

Section 1. DEFINITIONS

Whenever in this ordinance the words or phrases hereinafter  
in this section defined are used, they shall have the respective meanings  
assigned to them in the following definitions:

(a) "**Commission**" shall mean the Public Utilities Commission  
of the State of California.

(b) "**Underground Utility District**" or "**District**" shall mean  
that area in the City within which poles, overhead wires, and associated  
overhead structures are prohibited **as** such area **is** described **in a**  
resolution adopted **pursuant** to the provisions **of** Section 3 of **this**  
ordinance.

(c) "**Person**" shall mean and include individuals, firms, corpora-  
tions, partnerships, **and** their agents and employees.

(d) "**Poles, overhead wires and associated overhead structures**"  
shall mean poles, towers, supports, wires, conductors, guys, stubs,  
platforms, crossarms, braces, transformers, insulators, cutouts,  
switches, communication circuits, appliances, attachments and appurtenances  
located above-ground within a District and used or useful in supplying  
electric, **communication or** similar or associated service.

(e) "**Utility**" shall include all persons **or** entities supplying  
electric, communication or similar **or** associated service by means  
**of** electrical materials or devices.

(f) "**City Engineer**" shall mean the duly appointed and acting  
City Engineer **of** the City of Lodi.

(g) "City Council" shall mean the Council of the City of Lodi.

Section 2. PUBLIC HEARING BY COUNCIL

The Council may from time to time call public hearings to ascertain whether the public necessity, health, safety or welfare requires the removal of poles, overhead wires and associated overhead structures within designated areas of the City and the underground installation of wires and facilities for supplying electric, communication, or similar or associated service. The City Clerk shall notify all affected property owners as shown on the last equalized assessment roll and utilities concerned by mail of the time and place of such hearings at least ten (10) days prior to the date thereof. Each such hearing shall be open to the public and may be continued from time to time. At each such hearing all persons interested shall be given an opportunity to be heard. The decision of the Council shall be final and conclusive.

Section 3. COUNCIL MAY DESIGNATE UNDERGROUND UTILITY DISTRICTS BY RESOLUTION

If, after any such public hearing the Council finds that the public necessity, health, safety or welfare requires such removal and such underground installation within a designated area, the Council shall, by resolution, declare such designated area an Underground Utility District and order such removal and underground installation. Such resolution shall include a description of the area comprising such district and shall fix the time within which such removal and underground installation shall be accomplished and within which affected property owners must be ready to receive underground service. A reasonable time shall be allowed for such removal and underground installation, having due regard for the availability of labor, materials and equipment necessary for such removal and for the installation of such underground facilities as may be occasioned thereby.

#### Section 4. UNLAWFUL ACTS

Whenever the Council creates an Underground Utility District and orders the removal of poles, overhead wires and associated overhead structures therein as provided in Section 3 hereof, it shall be unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ or operate poles, overhead wires and associated overhead structures in the District after the date when said overhead facilities are required to be removed by such resolution, except as said overhead facilities may be required to furnish service to an owner or occupant of property prior to the performance by such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility service as provided in Section 9 hereof, and for such reasonable time required to remove said facilities after said work has been performed, and except as otherwise provided in this ordinance.

#### Section 5. EXCEPTION, EMERGENCY OR UNUSUAL CIRCUMSTANCES

Notwithstanding the provisions of this ordinance, overhead facilities may be installed and maintained for a period, not to exceed fourteen (14) days, without authority of the City Council in order to provide emergency service. The City Council may grant special permission on such terms as the City Council may deem appropriate in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use or operate poles, overhead wires and associated overhead structures.

#### Section 6. OTHER EXCEPTIONS

This ordinance and any resolution adopted pursuant to Section 3 hereof shall, unless otherwise provided in such resolution, not apply to the following types of facilities:

(a) Any municipal facilities or equipment installed under the supervision and to the satisfaction of the City' Engineer.

(b) Poles or electroliers used exclusively for street lighting.

(c) Overhead wires (exclusive of supporting structures) crossing any portion of a District within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a District, when such wires originate in an area from which poles, overhead wires and associated overhead structures are not prohibited.

(d) Poleg, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of 34,500 volts.

(e) Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street or alley.

(f) Antennae, associated equipment and supporting structures, used by a utility for furnishing communication services.

(g) Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, and concealed ducts.

(h) Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects.

#### Section 7. NOTICE TO PROPERTY OWNERS AND UTILITY COMPANIES

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Within ten (10) days after the effective date of a resolution adopted pursuant to Section 3 hereof, the City Clerk shall notify all affected utilities and all persons owning real property within the District created by said resolution of the adoption thereof. Said City Clerk shall further, notify such affected property owners of the necessity that, if they or any person occupying such property desire to continue to receive

electric, communication, or similar or associated service, they or such occupant shall provide all necessary facility changes on their premises so as to receive such service from the lines of the supplying utility or utilities at a new location, subject to applicable rules, regulations and tariffs of the respective utility or utilities on file with the Commission or adopted by the City of Lodi.

Notification by the City Clerk shall be made by mailing a copy of the resolution adopted pursuant to Section 3, together with a copy of this ordinance, to affected property owners as such are shown on the last equalized assessment roll and to the affected utilities.

#### Section 8. RESPONSIBILITY OF UTILITY COMPANIES

If underground construction is necessary to provide utility service within a District created by any resolution adopted pursuant to Section 3 hereof, the supplying utility shall furnish that portion of the conduits, conductors and associated equipment required to be furnished by it under its applicable rules, regulations and tariffs on file with the Commission or adopted by the City of Lodi.

#### Section 9. RESPONSIBILITY OF PROPERTY OWNERS

(a) Every person owning, operating, leasing, occupying or renting a building or structure in a District shall perform construction and provide that portion of the service connection on his property between the facilities referred to in Section 8 and the termination facility on or within said building or structure being served, all in accordance with applicable rules, regulations and tariffs of the respective utility or utilities on file with the Commission or adopted by the City of Lodi.

(b) In the event any person owning, operating, leasing, occupying or renting said property does not comply with the provisions of subparagraph (a) of the Section 9 within the time provided for in the resolution enacted pursuant to Section 3 hereof, the City Engineer shall

post written notice in a conspicuous place on the property being served and give written notice by mail to all customers being billed for the utility on the property being served thirty (30) days thereafter shall have the authority to order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to said property. ,

Section 10. RESPONSIBILITY OF CITY

City shall remove at its own expense all City-owned equipment from all poles required to be removed hereunder in ample time to enable the owner or user of such poles to remove the same within the time specified in the resolution enacted pursuant to Section 3 hereof.

Section 11. EXTENSION OF TIME

In the event that any act required by this ordinance or by a resolution adopted pursuant to Section 3 hereof cannot be performed within the time provided on account of shortage of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience, or any other circumstances beyond the control of the sector, then the time within which such act will be accomplished shall be extended for a period equivalent to the time of such limitation.

Section 12. PENALTY

It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this ordinance. Any person violating any provision of this ordinance or failing to comply with any of its requirements shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment. Each such person shall be deemed guilty of a separate offense for each day during any

portion of which any violation of any of the provisions of this ordinance is committed, continued or permitted by such person, and shall be punishable therefore as provided for in this ordinance.

Section 13. CONSTITUTIONALITY

If any section, sub-section, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have adopted the ordinance and each section, sub-section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses or phrases be declared invalid.

Section 14. PUBLICATION

The City Clerk is hereby directed to cause this ordinance to be published by one insertion in the Eodi News Sentinel, a newspaper of general circulation printed, published, and circulated in City and hereby designated for that purpose by the Council.

Section 15. EFFECTIVE DATE

This ordinance shall take effect and be in force thirty (30) days from and after its adoption.

Approved this 7th day of October, 1970.

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BEN SCHAFFER, Mayor

Attest: BESSIE L. BENNETT  
City Clerk

State of California,

County of San Joaquin, ss.

I, Bessie L. Bennett, City Clerk of the City of Lodi, hereby certify that Ordinance No. 937 was introduced at a regular meeting of the City Council of the City of Lodi held September 16, 1970, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held October 7, 1970, by the following vote:

Ayes: Councilmen - EHRHARDT, HUGHES, KATNICH,  
KIRSTEN and SCHAFFER

Noes: Councilmen - None

Absent: Councilmen - None

Bessie L. Bennett  
City Clerk

I further certify that Ordinance No. 937 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

City Clerk